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Massachusetts Association of Criminal Defense Lawyers

Criminal justice reforms -- trees, not forest

To the Editor [RE: "Criminal justice debate heats up" (Mon, Oct 9th)]:

The Senate's criminal justice bill takes excellent steps towards USA's recent Smart-on-Crime paradigm shift. But its important "trees" reforms fail three "forest" challenges: mass incarceration, broad racial injustice, and broader diversion from wasteful/harmful court usage.

Massachusetts' incarceration rate is 2-7 times our international allies', five times our 1970's rate, averaging \$50,000/inmate and over \$1 billion annually. Crime prevention is grossly underfunded. Blacks' are incarcerated eight times Whites; Hispanics, five times.

Yes, the bill -- lacking numerical projections -- tries "to pare the number of people ensnared in the system"; but far from enough. The main reforms make the adulthood age 18 and loosen some -- not all -- drug mandatory-minimum sentences.

Yes, minimum mandatory sentences applied to drug cases are the most insidious/unpopular, with mythical deterrence, shifting judges' discretion to prosecutors, and glaring racial disparities -- flaws of *all* mandatory minimum sentencing schemes. The worst racial disparities are for fire-arms (80% being non-Whites); yes, some need jail, but judges should make the decision based on each individual case before them.

Only 12% of Mass. inmates are for drugs, including non-man/min cases. What we really need is far broader, evidence-based, sentencing reform -- including "safety valve" provisions that allow judges to impose a sentence below the minimum mandatory where appropriate and a legislatively mandated advisory sentencing guidelines for all crimes from the Sentencing Commission under G.L.c. 211E.

Derege Demissie, President &
Marty Rosenthal, Legislative Policy Chair,